

House Bill 355

By: Representatives Lunsford of the 110<sup>th</sup>, Rice of the 51<sup>st</sup>, Lewis of the 15<sup>th</sup>, Knox of the 24<sup>th</sup>, Channell of the 116<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Article 2 Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to searches with warrants, so as to change provisions relating to issuance of search warrants by video conference; to provide for issuance of search warrants by facsimile or other electronic means; to provide for a definition; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 2 Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to searches with warrants, is amended by revising Code Section 17-5-21.1, relating to issuance of search warrants by video conference, as follows:

"17-5-21.1.

(a) A judge of any court in this state authorized to issue search warrants pursuant to Code Section 17-5-21 may, as an alternative to other laws relating to the issuance of search warrants, conduct such applications for the issuance of search warrants by video conference or by any device that electronically transmits a facsimile or image of the written search warrant affidavit, including, but not limited to, e-mail, e-mail attachments, or other electronic means.

(b) Search warrant applications heard by video conference or other electronic means shall identify the person testifying and shall be conducted in a manner to ensure that the judge conducting the hearing has ~~visual and~~ audible contact with all affiants and witnesses giving testimony. Search warrant applications that are transmitted electronically shall contain the affiant's signature via facsimile or the affiant's electronic signature. The judge conducting the hearing shall confirm with the affiant the receipt of the search warrant application and any supporting documents and shall verify that the affiant's signature is genuine.

(c) The affiant participating in a search warrant application by video conference or other electronic means shall sign the affidavit for a search warrant and any related documents by

1 any reasonable means which identifies the affiant, including, but not limited to, his or her  
2 typewritten name, signature affixed by electronic stylus, signature affixed by facsimile,  
3 electronic signature, or any other reasonable means which identifies the person signing the  
4 affidavit and any related documents. The judge participating in a search warrant  
5 application by video conference or other electronic means shall sign the affidavit for a  
6 search warrant, the search warrant, and any related documents by any reasonable means  
7 which identifies the judge, including, but not limited to, his or her typewritten name,  
8 signature affixed by electronic stylus, signature affixed by facsimile, electronic signature,  
9 or any other reasonable means which identifies the judicial officer signing the affidavit and  
10 warrant and any related documents. Such applications shall be deemed to be written within  
11 the meaning of Code Section 17-5-21. Such authorization shall be deemed to comply with  
12 the issuance requirements provided for in Code Section 17-5-22.

13 (d) A judge hearing oral testimony in matters pursuant to this Code section shall  
14 administer an oral oath to ~~any~~ the person testifying ~~by means of a video conference.~~ If  
15 testimonial materials are transmitted electronically, a judge may administer an oral oath  
16 prior to transmission, or the person testifying may transmit the oath electronically in an  
17 affidavit containing the affiant's signature via facsimile or electronic signature.

18 (e) A copy of any document transmitted electronically pursuant to this Code section shall  
19 be maintained as part of the record. A video recording of the application hearing and any  
20 documents submitted in conjunction with ~~the~~ a video conference application shall be  
21 maintained as part of the record.

22 (f) As used in this Code section, the term 'electronic signature' shall have the same  
23 meaning as set forth in Code Section 10-12-3."

## 24 SECTION 2.

25 This Act shall become effective upon its approval by the Governor or upon its becoming law  
26 without such approval.

## 27 SECTION 3.

28 All laws and parts of laws in conflict with this Act are repealed.